

REMARKS

Claims 26, 27, 28, 29, 30, 31, 32, 35, 43, 45, and 47-51 are in this application.

Claims 1 – 25, 33, 34, 36-42, 44 and 46 have been cancelled.

Claims 26, 32, 43, 45, 47, 48, 49, 50 and 51 have been amended.

The Examiner has rejected Claims 26-32, 35, 41, 43, 45, and 47-50 under 35 USC 112, first paragraph. This is respectfully traversed.

In view of the amendments to Claims 26 and 50 to include produce transgenic strawberry plant it is respectfully requested that this rejection be withdrawn.

Claims 26-32, 35, 41, 43, 45, and 47-49 are rejected under 35 USC 103(a) as being unpatentable over Mathews et al., in view of Dogov et al. This is respectfully traversed.

As explained in the previous response, the methods disclosed in these references do not make the claimed invention obvious. In the method claimed in this application, the internal induction processes occurring in an explant in response to a wound caused by separating an explant from the leaf disk.

The method claimed makes it possible to enhance the level of induced resistance formed in an explant due to the use of time intervals between the first and the second steps of separating the explants from each other. During this time interval (1 to 5 days) one side of the explant "is healed" by proteins and enzymes induced not only at the site of wounding. According to the method claimed, the final separation of an explant from a leaf is carried out upon completion of regeneration of the rear side of the explant.

The inventors claim that the final separation of the explant upon a certain time interval makes it possible to use the internal induction processes resulting from the wound shaping and aiming at maintaining stability and lowering necrosis of cells and somatic variations.

Attached is the declaration of Konstantin Alexandrovich Shestibratov, one of the inventors named on this application.

In his Declaration, Mr. Shestibratov explains the experiments that were carried out to compare the results obtained using the method of this invention with the standard protocols (see paragraph 7.1 of the declaration). The results from the experiments are shown in Table 1 of the declaration and as explained by Mr. Shestibratov, the “[p]rincipal differences were observed in such parameters as percent of direct regenerants (transformants), efficiency of transformation and frequency of somaclonal variation.” (See top of page 3 of the declaration.)

The results of field testing are submitted with the Declaration and these are referred to on paragraph 8 of the Declaration. An English language translation of the field test accompany the Declaration.

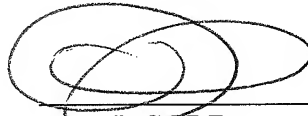
As stated on page 6 of the Official Action, the rejection under 35 USC 103 can be obviated by evidence of unexpected results provided in a declaration. Therefore, since unexpected results are shown, it is respectfully requested that this rejection be withdrawn.

It is submitted that the claims are in condition for allowance.

If any fees are due they may be charged to Deposit Account 12-0425.

Questions regarding this response may be directed to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal stroke at the end.

Janet I. CORD
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NEW YORK 10023
REG. NO.33778 (212)708-1935